

April 13, 2009



Alexis North,
U.S. Environmental Protection Agency
Region 8 Air Program
1595 Wynkoop Street
Denver, CO 80202-1129

RE: Comment on "Treatment in a similar manner as a state"
classification for both Tribes of the Wind River Reservation
pursuant to the Clean Air Act, 42 USC 7401 et seq. (1970)
and boundary / land status of said reservation,

Dear Sir or Madam:

I am an enrolled member of the
Tribe (Tribal ID # _____) which resides on and
shares the Wind River Indian Reservation in Wyoming with
the _____

The classification being sought by both Tribes should be
granted post haste by EPA as the area in question is
"Indian Country" as defined at 18 U.S.C. 1151 et seq. The designation
of such is in line with the sovereign interests with both
Tribes over their long standing land base i.e. (Reservation).
1.

With all due respect to any and all counties which might be effected by the classification being sought by the Tribes, EPA should consider that the Wind River Indian Reservation was negotiated and later established between both of the Tribes and the United States. Thus, the classification is an extension of Fiduciary duties by the U.S. to the Tribes. This obligation is conspicuous and is beyond any challenges or objections to its lawful enactment by any State, County and City governments.

The classification if granted would be aligned with EPA's determinations in granting permits (WY21090-07793) and (WY210995-07390) with respect to the area in question, i.e. "Indian Country" as defined at 18 USC 1151 et seq. Along with my comments I submit the enclosed map titled "State of Wyoming Land Status 1984" which was produced by the U.S. Department of the Interior (BLM) and clearly depicts the boundaries of the Wind River Indian Reservation.

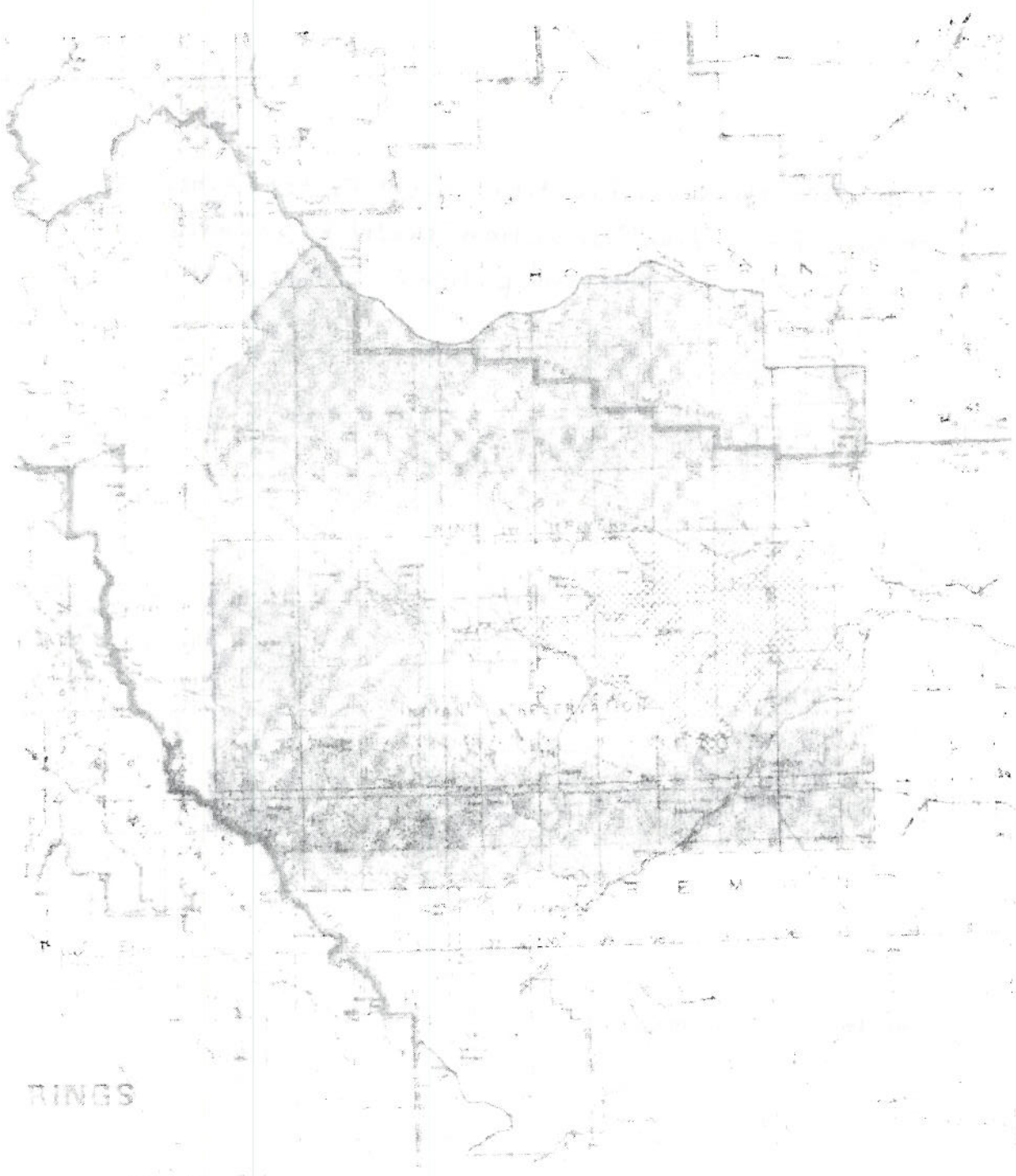
There can be no colorable claim which disputes the existence of the boundaries of the Wind River Indian Reservation by the State of Wyoming, Fremont County and any municipalities therein. See the official record of:

In re: The General Adjudication of All Rights to Use Water in the Big Horn River System and all Other Sources, 753 F.2d 76 (Wyo. 1988).

Wherefore, the classification sought by the Tribes over
the Wind River Indian Reservation should be granted.
Thank you for your time and patience in this matter.

Sincerely,

enclosures: one map



STATE OF WYOMING
LAND STATUS

1984

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT



Alexis North
U.S. EPA Region 8, Air Program
Mail Code 8P-AR
1595 Wynkoop Street, 80C-I.
Denver, CO 80202-1129

Dear Sir or Madam:

Please consider these official comments as solicited by the Notice of Application for TSAS for air quality by the Shoshone and Arapaho Tribes which was published in the April 8, 2009 issue of the Riverton Ranger.

The application should be denied by the EPA for the reason that the boundary of the Wind River Reservation has never been clearly legally established as described in your Public Notice. The boundary you describe is the position held by the tribes, but you must be aware there is a huge legitimate legal opposite position which is properly based on the physical and political history of this area held by the other 20,000 residents who live here. The very boundary you describe in your Notice is presently in litigation, and for the EPA, an executive branch agency, to make a decision arbitrarily defining the boundaries, is to commandeer a function of the United States judicial branch, which you clearly do not have the authority to do.

There are a number of other sound reasons for the EPA to deny the application, but in the interest of upholding the ideals of government for all Americans in this area, you must do so on the basis of this reason alone. Thank you for the opportunity to comment.

Sincerely yours,

April 27, 2009

Alexis North
US EPA Region 8P-AR
Mail Code 8P-AR
1595 Wynkoop St. 800-L
Denver, CO 80202-1129

8P-AR

Dear Ms. North

Please accept this letter and comments in response to the Public Notice published in the Riverton Ranger Wednesday April 18th, 2009, regarding application by the Northern Arapaho and Eastern Shoshone Tribes of the Wind River Reservation for Treatment in The Same Manner as a State for purposes of the Clean Air Act Section 105 Grant Program.

The application raises a number of questions and concerns.

First, the application does not indicate a specific need for additional air studies. The tribes presently receive both State and Federal funds to monitor air quality over the reservation.

The majority of lands within Fremont County are Federal, State, or Reservation lands which makes the Tribes full partners in the agreement and mitigation measures solicited for most activities requiring application and permitting that occur within the area. It would seem a TSA designation would be a duplication of activities and funding.

Because there are rules, regulations and laws that allow designations such as T.A.S., it does not necessarily indicate they are actually needed.

The concern is that once such a designation is granted, as has been seen in different parts of the country, the need for the power to regulate will be requested, and if granted, opens up a multitude of other serious issues.

Second, The boundary as described in the application is one that is currently the subject of a pending lawsuit. It would be totally inappropriate for any Agency to approve an application based on boundary lines that are currently under litigation. Approval by your Agency would in fact, give unfair advantage to the Tribes when the lawsuit is argued before the court.

The boundary line comes under question, in part, based on Public Law 284-August 15, 1953, which clearly states the Tribes were paid "full and complete compensation..." for portions of the lands claimed by the Tribes in the application.

The Tribes had made several attempts to have all the lands as described in the application designated as "Indian Lands." This application is clearly another attempt to establish the designation "Indian Lands" to circumvent the legal process now in motion.

In an article published in the Riverton Ranger, Friday April 10, 2009, entitled "New Wrinkle," a Tribal spokesman openly admitted the purpose of the application was to have a Federal Agency determine the boundaries and further asserts, the long range goal is the Regulatory Authority which will cover much of west central Wyoming, not only Fremont County, but several other Counties as well.

Question, Were all the surrounding counties given proper and timely notification of the application and made aware of all the implication that would come with the proposed designation?

A favorable decision at this time by your Agency would open an endless stream of additional issues. City and State taxes, law enforcement on and off the Reservation, and would subject non-tribal citizens and their property to future actions imposed by a government they neither elect, nor have little, or no, influence over.

Points to consider before any decision is rendered on this application:

1. Lack of showing a specific need for such a designation.
2. Possible duplication of funding and authorities.
3. Reservation boundary lines currently under litigation.
4. Comment period should be extended and all entities which could be affected in the future receive adequate notice and information.

Please seriously consider these comments as you move through your decision process.

Sincerely:

cc. Senator John Barrasso
cc. Senator Mike Enzi
cc. Representative Cynthia Lummis

April 20, 2009

Alexis North

U.S. EPA Region 8, Air Program

Mail Code 8P-AR

1595 Wynkoop Street, 800-L

Denver, CO 80202-1529

Dear Ms. North,

Please consider my comments on the application of the Shoshone and Arapahoe tribes for Treatment in a Similar Manner as a State (TAS), and their boundary description of the Wind River Indian Reservation.

Since an act of Congress in 1905, the boundary of the Wind River Reservation has been diminished to its present boundary, which is the Wind River on its northern border. Fremont County and the State of Wyoming, and three Wyoming Supreme Court decisions all honor the Act of Congress of 1905. The tribes have received compensation for the cession of the land more than once, the last time in 1955 in which Congress made the final compensation, stating that it was deemed to constitute full, complete and final compensation for terminating and extinguishing all of the right, title, estate and interest of, in, and to the lands, interests in lands, and any and all past and future damages arising out of this cession to the United States.

In *Blackburn v. State*, the court said "We have before us a map of this state issued by the United States Department of Interior. The map shows that Riverton and the area for many miles north of Riverton is not contained in the Wind River or Shoshone Indian Reservation as now existing, but is contained in Fremont County, Wyoming." If you blur the boundary as described by the tribes, EPA will be contradicting the Department of Interior.

It would be unethical for the EPA to sidestep all of these opinions and decisions and agree with the tribes that the boundary is the 1868 Treaty. It is under litigation again, and it would not be proper for the EPA to circumvent acts of Congress and court cases to even put out for comment this boundary issue.

Nine counties and eight or nine towns would be affected by TAS for the tribes. Have you notified all of the towns and counties of your contemplated action? Are they aware that, even though the tribes are now applying for grant administration authority, the tribes fully intend to pursue this to the level of regulatory authority, and what that means to towns, counties and

citizens? What it means is that citizens, businesses, towns and counties in the affected area will be under the regulatory authority of a government they have no participation in. You must make that clear. Since all of the affected parties have not been notified, I request that the comment period be extended and all parties be notified.

Further, there is no need for the tribes to regulate air quality. There are plenty of agencies in place to do the job. Tribes already get grants for various programs. There are no accountability measures in place to see that tribes use the money they are given for the purposes they were given it. This reservation is famous for "losing" millions in grant money and shutting down programs.

Thank you for considering my comments. My hope is that you will see that the request for the 1863 boundary is out of the question considering all the evidence to the contrary.

Sincerely,

May 2, 2009

Ms. Alexis North
U.S. EPA Region 8, Air Program
Mail Code 8P-AR
1595 Wynkoop Street, 80C-L
Denver, CO 80202-1129

RE: Northern Arapaho and Eastern Shoshone Tribes application for CAA-TAS

Dear Ms. North,

I am of American Indian decent. Though I have enrolment quantity blood I am not enrolled in my Fathers Tribe, by his choice. What my Father told me, after I was grown, the way of the future was not the old Indian way but a new way of many people joined together, under our constitution, to make this country work for all of us. He said my Heritage was in my heart and how I lived and treated others was what made it good or bad. As Citizens of the United States all Indians have the same rights as every other citizen of this Great Nation. They have decided that *Indians are greater than other citizens and that they should be separate nations with equal status with the U.S. Government. This is not right.*

The Indians receive the lions share of their money from the Federal Government in monthly allotment checks and moneys given to their tribal councils to support the business of their Government. They are never required to account for any money received by their councils, unlike the States that receive money from the Feds for their projects. If the Indians are given control of air quality over the lands surrounding the Reservation they will have control of Federal, State, and Private land for he who controls the air controls everything.

The two tribes on the Wind River Reservation already have control of the air quality on the Reservation. Now they want this control to be extended to cover an area much larger than the actual Reservation boundaries with additional moneys to pay for doing the job. This area covers portions of eight counties in the state of Wyoming including a number of municipalities. This control should remain with the EPA and the DEQ.

My reasoning is simple. If this control is given to the Indians only the Indian Councils will have the say in the air that flows over this area. We the people, who live, work and own land outside the actual Reservation boundary will have no say at all as we will not be allowed to vote on any issues that come up. You must be an enrolled Indian to vote. On top of that the Councils control the Indian People by having the raising of the hand as the only method of voting.

Currently the Northern Reservation boundary is under litigation and nothing should be awarded the Indians until this has been settled. In the early twentieth century the U.S. Government withdrew the land North of the River and paid the Tribes for the land. This must be resolved once and for all before anything else occurs.

Many Indians live in deep poverty while Council members, their families and friends live a life of plenty. Monies just disappear and never come back. Accountants both from other tribes and locally have thrown their hands up and refused to further try and sort out the accounting on this Reservation. Are the Feds that willing to turn over money and air quality control to someone with such a bad track record in money management..

I have four question that I would like to have answered: 1. Why would the government pay the Indians to control the air quality on land already owned by the government because controlling the quality of the air also gives them

control over the land? 2. Why let the Indians have status equal to the Feds when the Feds provide the major share of the operating capital of the tribes? If they are equal to our National Government and greater than all the States shouldn't they be self supporting without any funds from either the Federal Government or the states within whose borders their lands lie? 3. What happens to the people who live work recreate and own land within this area given to the Indians to control? Does our property lose its value and do we lose our right to have a vote in what happens to our lives? 4. Should not this have been advertized in all the major newspapers in the eight counties affected?

In my humble opinion, when the litigation on just how much land is actually in the Reservation then and only then the Native peoples should be given control over their land and the air quality of the same area and no more.

Respectfully,

Cc: Representative Lummis, Senator Enzi, Senator Barrasso

Ms. Alexis North
U.S. EPA Region 8, Air Program
Mail Code 8P-A
1595 Wynkoop Street 80C-L
Denver, Colorado 80202-1129

Re: North Arapahoe and Eastern Shoshone Tribal Application for CAA-TAS

Dear Ms. North,

This letter is in response to a public notice you placed in the local newspaper, the Riverton Ranger, on April 8, 2009. It is my understanding from the notice, for the EPA to grant the Wind River Tribes a "Status same as a state" to control the air and eventually water, etc., the exterior border of their reservation must be firmly established for all times.

To understand the request and the situation at hand, I concluded after investigation your agency must wait to grant any such status until all avenues of litigation are complete.

In reading carefully your printed description of the borders I realized you totally failed to mention the most defining document for establishing the northern border of the said reservation. The Land Cession Agreement of 1904 set the northern boundary of said reservation as the Wind River on the south side of Riverton. It was signed after careful explanation and gaining the agreement by 282 male Indians of the said Reservation 22 April 1904. The agreed consent was witnessed by 5 non-tribal persons both federal employees and the local well respected pastor, John Roberts. On March 3, 1905 the U.S. Congress ratified the agreement. Both the State of Wyoming and the Fremont County Government have historically held to this ratified agreement establishing the set northern boundary of the Wind River Reservation.

Should your decision to grant the Wind River Tribes this EPA status, I hope you will recognize a long standing problem of Tribal Money Management. Despite the record millions upon millions of dollars flowing through the tribal government there is little or no accountability. The money flows with little accomplishment. No official audit has been done of the Shoshone Tribe since 1980 either by the Federal Government or by an accredited CPA.

It is my expressed wish you wait or at least deny this privilege to these two tribes at this time.

Sincerely,

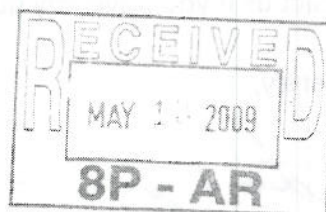
cc. Senator Barrasso, Senator Enzi, Representative Lummis



WYOMING AG-BUSINESS ASSOCIATION

May 11, 2009

Alexis North
U.S. EPA Region 8, Air Program
Mail Code 8P-AR
1595 Wynkoop Street, 80C-L
Denver, CO 80202-1129



Dear Ms. North:

I am pleased to submit the following comments on the notice of application by the Northern Arapaho and Eastern Shoshone Tribes of the Wind River Indian Reservation for TAS (Treatment in a Similar Manner as a State) under the Clean Air Act (CAA).

The Wyoming Ag-Business Association represents retailers and manufacturers whose primary business is supplying inputs to production agriculture. Several of our members have their headquarters within the proposed boundaries of this action, and several additional members have customers located within these boundaries.

We believe that lands which were sold by the tribes to private parties, as well as local governments, should be excluded for the boundaries of this action. When these lands were purchased from the tribes, it was anticipated that the lands would then be governed as any other lands in Wyoming owned under a fee-simple deed.

There is a considerable acreage of high value irrigated lands located within the boundaries of this proposal, which have been owned for nearly 100 years by private persons. Approving these boundaries without modification will most likely harm these owners through decreased property values, and the likelihood that the regulatory scheme will differ from the surrounding area. There is also a question whether these landowner's views regarding regulations will be

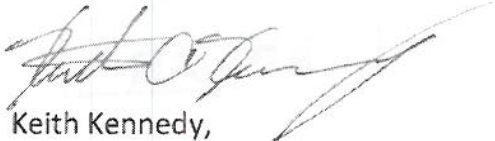
Promoting and Protecting Agricultural Business

Executive Offices
PO Box 1778
Laramie Wyoming 82073

considered by the tribes, when rulemaking regarding the CAA takes place, as it would under the current regulatory scheme.

Again, we appreciate the opportunity to submit these comments. Please contact us if you have any question regarding these comments,

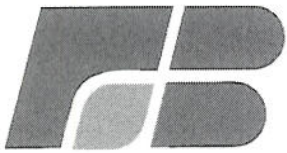
Sincerely,



Keith Kennedy,
Executive Director,
Wyoming Ag-Business Association

Promoting and Protecting Agricultural Business

Executive Offices
PO Box 1778
Laramie Wyoming 82073



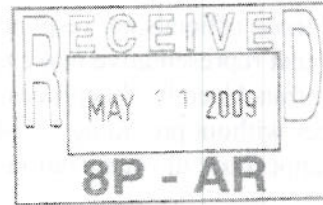
WYOMING FARM BUREAU FEDERATION

P.O. Box 1348

Laramie, Wyoming 82073 • (307) 745-4835

May 8, 2009

Alexis North
US EPA Region 8, Air Program
Mail Code 8P - AR
1595 Wynkoop Street, 80C-L
Denver, CO 80202-1129



Dear Ms North:

The Wyoming Farm Bureau Federation would like to provide the following comments regarding the request of members of the Wind River Indian Reservation to be treated in the same manner as a state. The Wyoming Farm Bureau Federation represents agricultural and non-agricultural producers throughout the state of Wyoming. Our member agricultural producers are actively engaged in food production throughout the state. Many of those members are active in food production in the area proposed for inclusion in the application for treatment in the same manner as a state (TAS).

Currently air quality issues in Wyoming are under the purview of the Wyoming Department of Environmental Quality (DEQ) which was established by Wyoming Statutes in 1973. The legislature passed the Environmental Quality Act in order to more closely manage the resources. In other words they felt that state management would be more responsive than federal management. The legislature also was cognizant of the ability of state government to respond in a quicker manner to local concerns than could the federal government. Over the years a significant amount of State resources have been provided to this agency to build their ability to respond to environmental concerns.

Because of a significant number of unclear and unanswered questions over this issue we urge the Agency to not grant this request.

The proposal seeks jurisdiction for Clean Air Act purposes over enrolled tribal members and non-tribal members alike. The Tribes (The Northern Arapaho and Eastern Shoshone Tribes) have provided an extensive legal analysis arguing that the areas owned by non-tribal members should be included in the area based on agreements between the Tribes and the federal government. The analysis seeks to convince the Environmental Protection Agency (EPA) that those areas currently owned by non-tribal members should still come under the jurisdiction of Tribal authority. The legal arguments seem to confuse the issue rather than clarify the issue. The argument which should be raised, but which was not addressed in any fashion, is how those non-tribal members will be allowed to elect those officials which seek to take over the management of this resource.

A fundamental right established by the founding of this nation was the right of the citizens to vote for those who govern them. Tribal members have always had the opportunity to vote for those who represent them at the county, state and national level.

Should those officials not respond to their needs they have the opportunity to vote to change that representative make up. Not so the non-tribal members. These citizens will be disenfranchised by this process should EPA grant the Tribes authority over air resources without providing for adequate representation by non-tribal members. This would appear to our organization to be a violation of these non-tribal members civil rights.

The Tribes also make the argument that because Congress never agreed to diminish the reservation through the Act of 1905 that those non-tribal members who have acquired clear title to land through that Act are still in-fact under the jurisdiction of the Tribal Government and that, "... non-federal entities in the area recognized the continuing Reservation status of the lands immediately subsequent to the passage of the 1905 Act" (Statement of Legal Council Document page 66). However, it has been a long recognized practice that non-Indians in the vicinity of the Reservation have established their own governmental system outside of the Tribal jurisdiction. Citizens within the city limits of Riverton routinely vote in elections for city councils and Mayor. These elections are open to all citizens living within the Riverton City limits and not just enrolled tribal members. The same is true for school districts within the exterior boundary of the Reservation. These citizens participate in elections of representatives for school boards without having to exhibit proof of tribal enrollment.

The Federal Government land ownership maps also clearly delineate lands which were obtained by non-Indians under the 1905 Act as not being part of the Reservation. The Statement of Legal Council seems to try to confuse this issue by not clearly identifying the different land ownership issues. The fact that an area was opened to non-Indians but that much of that area was not taken up by non-Indians was used to argue that all of the land, both non-Indian settled land and un-settled land should be treated the same, when those areas settled are very much different than those areas not settled.

The Statement of Legal Council also seizes upon words used to describe the area such as Riverton being on the Reservation as proof that these areas were always considered Tribal jurisdictional areas by the state of Wyoming. A clearer explanation is that the terminology employed was done so for expedience and not accuracy. As mentioned earlier in our comments, non tribal members who live in the area routinely hold elections and govern themselves outside of the Tribal government structure.

Our organization has significant concerns over unanswered questions.

Will the Tribes have the necessary resources to adequately carry out the requirements of the CAA? The Statement of Legal Council and other documents do not provide an answer to that question. Information that would allow the public to adequately analyze whether this could occur is lacking and therefore the public cannot adequately comment on the proposal.

WyFB Comments

Page 3

What process will the Tribes provide to allow for input into the management of these resources should EPA decide to grant the Tribes request and include both Indian and non-Indian areas? Because of our low population, citizens in Wyoming, perhaps more than other states, have easy access to those governmental officials, both elected and appointed, who develop and administer these regulatory programs. It seems counterproductive to replace a responsive system with one that is less responsive.

Will the Tribes be required to establish a governing body such as the Wyoming Environmental Quality Council to oversee rules and regulations for air quality?

If so, what will the process for appointment be to this body?

If not, how can all of the citizens affected participate in the process?

Do the Tribes currently have a process similar to the Wyoming Administrative Procedures Act that allows for citizens to be protected against arbitrary and capricious actions by an agency?

If the Tribes seek to only partially administer part of the CAA through a grant of authority by EPA, will all of the citizens be provided an opportunity to comment when they seek to expand that authority?

Again, we reiterate our concerns over the potential disenfranchisement of a large number of citizens by this proposal, the lack of adequate information to analyze the proposal and the significant number of unanswered questions over the administration of the program for both Indian and non-Indian citizens.

Thank you for the opportunity to comment.

Sincerely,



Ken Hamilton
Executive Vice President

Cc Governors Office
 Congressional Delegation
 Board
 NER Fremont, Sublette, Park, Hot Springs, Washakie and Sweetwater

